

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ASHMANSKAS, Magistrate Judge:

BACKGROUND

///

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ASHMANSKAS, Magistrate Judge:

BACKGROUND

///

LEGAL STANDARDS

Local Rules 3.3 and 3.4

LR 3.3 establishes four Divisions within the District of Oregon: Portland, Pendleton, Eugene, and Medford. The Portland Division includes Clackamas, Clatsop, Columbia, Hood River, Jefferson, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill Counties; the Pendleton Division includes Baker, Crook, Gilliam, Grant, Harney, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties; and the Medford Division includes Curry, Jackson, Josephine, Klamath, and Lake Counties.

LR 3.4(a)(1) states that cases arising in counties within either the Portland or Pendleton Divisions will be filed at the Clerk's Office in the Portland Division, and LR 3.4(a)(3) states that cases arising in counties within the Medford Division will be filed at the Clerk's Office in Medford.

DISCUSSION

USFS argues that LR 3.4 requires the court to reassign this case to the Medford Division because the case arises out of and challenges activities within that division. SREP argues that the case arises in the Portland Division because it challenges the denial of an appeal the plaintiff filed at the Regional Forester's Office in Portland, and this denial was a final agency action.

The plaintiff relies on Headwaters v. Forsgren, Civil No. 01-1505-AS (D.Or. Dec. 2001), to support its argument. In Headwaters, the court denied the defendant's motion to transfer a case filed in the Portland Division to Judge Hogan in the Eugene Division. The court allowed the case to remain in the Portland Division, even though the case challenged a timber sale on the Rogue River National Forest, in the Medford Division. The defendant stated that the case should have been filed in the Medford Division under LR 3.4, but moved to transfer the case to the Eugene Division because it believed that Judge Hogan was particularly familiar with the facts of the case and the law. The court denied the defendant's request, noting that the defendant's argument that the Medford Division was proper did not support transfer to the Eugene Division. Headwaters differs from the current case; here, the USFS moves for reassignment to what it argues is the proper division, not to a specific Judge in a wrong division.

1 LEGAL STANDARDS

2 **Local Rules 3.3 and 3.4**

3 LR 3.3 establishes four Divisions within the District of Oregon: Portland, Pendleton,
4 Eugene, and Medford. The Portland Division includes Clackamas, Clatsop, Columbia, Hood River,
5 Jefferson, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill Counties; the Pendleton
6 Division includes Baker, Crook, Gilliam, Grant, Harney, Malheur, Morrow, Sherman, Umatilla,
7 Union, Wallowa, and Wheeler Counties; and the Medford Division includes Curry, Jackson,
8 Josephine, Klamath, and Lake Counties.

9 LR 3.4(a)(1) states that cases arising in counties within either the Portland or Pendleton
10 Divisions will be filed at the Clerk's Office in the Portland Division, and LR 3.4(a)(3) states that
11 cases arising in counties within the Medford Division will be filed at the Clerk's Office in Medford.

12 DISCUSSION

13 USFS argues that LR 3.4 requires the court to reassign this case to the Medford Division
14 because the case arises out of and challenges activities within that division. SREP argues that the
15 case arises in the Portland Division because it challenges the denial of an appeal the plaintiff filed
16 at the Regional Forester's Office in Portland, and this denial was a final agency action.

17 The plaintiff relies on Headwaters v. Forsgren, Civil No. 01-1505-AS (D.Or. Dec. 2001), to
18 support its argument. In Headwaters, the court denied the defendant's motion to transfer a case filed
19 in the Portland Division to Judge Hogan in the Eugene Division. The court allowed the case to
20 remain in the Portland Division, even though the case challenged a timber sale on the Rogue River
21 National Forest, in the Medford Division. The defendant stated that the case should have been filed
22 in the Medford Division under LR 3.4, but moved to transfer the case to the Eugene Division
23 because it believed that Judge Hogan was particularly familiar with the facts of the case and the law.
24 The court denied the defendant's request, noting that the defendant's argument that the Medford
25 Division was proper did not support transfer to the Eugene Division. Headwaters differs from the
26 current case; here, the USFS moves for reassignment to what it argues is the proper division, not to
27 a specific Judge in a wrong division.

1 Furthermore, Headwaters was decided prior to rulings by Judges King and Haggerty about
2 LR 3.4. In Oregon Natural Resources Council Fund v. Goodman, Judge King stated that LR 3.4 is
3 a "mandatory requirement," and that if a plaintiff wishes to deviate from the requirement, it needs
4 to seek leave of the Court. Transcript of Proceedings, Civil No. 04-593-AS (D.Or. May 2004).
5 There, the plaintiff filed the case in the Portland Division because the Regional Forester, who signed
6 an "emergency situation determination" for the challenged project, was located in Portland. The
7 defendant moved for reassignment because the challenged timber sale was to take place within the
8 Medford Division's boundaries. The court found the plaintiff's grounds for filing in the Portland
9 Division insufficient, and granted defendants' motion to reassign the case to the Medford Division.

10 Chief Judge Haggerty followed this reasoning and reassigned another case filed in the
11 Portland Division that challenged federal agency action to be implemented within the Medford
12 Division's boundaries. Oregon Natural Resources Council Fund v. Brong, Civil No. 04-683-BR,
13 Record of Order Granting Defendants' Motion to Reassign Case to Medford Division (D.Or June
14 2004).

15 The court agrees with USFS that under the Local Rules, the proper division within the
16 District of Oregon is the Medford Division.

17 CONCLUSION

18 The defendant's motion to reassign (#5) is GRANTED.

19
20 DATED this 20th day of October, 2005.

21
22 /s/ Donald C. Ashmanskas
23 DONALD C. ASHMANSKAS
24 United States Magistrate Judge
25
26
27

1 Furthermore, Headwaters was decided prior to rulings by Judges King and Haggerty about
2 LR 3.4. In Oregon Natural Resources Council Fund v. Goodman, Judge King stated that LR 3.4 is
3 a "mandatory requirement," and that if a plaintiff wishes to deviate from the requirement, it needs
4 to seek leave of the Court. Transcript of Proceedings, Civil No. 04-593-AS (D.Or. May 2004).
5 There, the plaintiff filed the case in the Portland Division because the Regional Forester, who signed
6 an "emergency situation determination" for the challenged project, was located in Portland. The
7 defendant moved for reassignment because the challenged timber sale was to take place within the
8 Medford Division's boundaries. The court found the plaintiff's grounds for filing in the Portland
9 Division insufficient, and granted defendants' motion to reassign the case to the Medford Division.

10 Chief Judge Haggerty followed this reasoning and reassigned another case filed in the
11 Portland Division that challenged federal agency action to be implemented within the Medford
12 Division's boundaries. Oregon Natural Resources Council Fund v. Brong, Civil No. 04-683-BR,
13 Record of Order Granting Defendants' Motion to Reassign Case to Medford Division (D.Or June
14 2004).

15 The court agrees with USFS that under the Local Rules, the proper division within the
16 District of Oregon is the Medford Division.

17 CONCLUSION

18 The defendant's motion to reassign (#5) is GRANTED.

19
20 DATED this 20th day of October, 2005.

21
22 /s/ Donald C. Ashmanskas
23 DONALD C. ASHMANSKAS
24 United States Magistrate Judge
25
26
27